

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TIKVA WOLFF,

Plaintiff,

v.

HOLLAND AMERICA LINES, INC. a  
Washington corporation, and COREA & CO.,  
LTD., dba COREA'S CARRIBEAN  
ADVENTURES, a foreign company,

Defendant.

No. CV09-0050 RAJ

**ANSWER AND AFFIRMATIVE  
DEFENSES OF DEFENDANT  
HOLLAND AMERICA LINES, INC.**

COMES NOW defendant Holland America Lines, Inc. and in answer to plaintiff's complaint, alleges as follows:

1. Answering paragraph 1, admits that defendant Holland America Lines, Inc. (hereinafter, "HAL") is a Washington corporation, which has its principal place of business in Seattle, Washington, and states it lacks sufficient information to admit or deny the remaining allegations of paragraph 1 and therefore denies the same.

2. Answering paragraph 2, admits.

3. Answering paragraph 3, admits that this honorable Court has jurisdiction over defendant HAL.

4. Answering paragraph 4, admits.

ANSWER & AFFIRMATIVE DEFENSES OF  
HOLLAND AMERICA LINES, INC. - 1  
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116440.0094/1721109.1

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1           5.     Answering paragraph 5, admits that defendant's vessel had an information  
2 booth onboard which advertised shoreside excursion trips that it sold on a commission basis  
3 and denies each and every remaining allegation of paragraph 5.

4           6.     Answering paragraph 6, admits that HAL screens tour operators, which it  
5 advertises to its cruise ship passengers, admits that it advertises on-shore excursions on its  
6 web site, and states it lacks sufficient information to admit or deny the remaining allegations  
7 of paragraph 6 and therefore denies the same.

8           7.     Answering paragraph 7, admits that as a prerequisite to becoming  
9 recommended shoreside tour operators, tour operators must provide HAL with a certificate of  
10 insurance and except as herein expressly admitted denies each and every remaining allegation  
11 of paragraph 7.

12          8.     Answering paragraph 8, admits that Corea is one of HAL's approved shoreside  
13 tour operators and that from time to time HAL communicates with Corea from Seattle,  
14 Washington.

15          9.     Answering paragraph 9, admits that sometimes HAL earns a commission as an  
16 independent contractor on the shoreside excursions it sells for various independent  
17 contractors, including Corea & Co., and except as herein expressly admitted, denies each and  
18 every remaining allegation of paragraph 9.

19          10.    Answering paragraph 1, admits

20          11.    Answering paragraph 2, states it lacks sufficient information to admit or deny,  
21 therefore denies the same.

22          12.    Answering paragraph 3, admits that plaintiff sustained a broken wrist while  
23 disembarking from a catamaran operated by Corea & Co., and except as herein expressly  
24 admitted, denies each and every remaining allegation of paragraph 3.

25          13.    Answering paragraph 4, defendant realleges and incorporates by reference its  
26 answers to paragraphs 1 through 12 above.

1           14.     Answering paragraph 14, defendant states it lacks sufficient information to  
2 admit or deny and therefore denies the same.

3           15.     Answering paragraph 15, states it lacks sufficient information to admit or deny  
4 and therefore denies the same.

5           16.     Answering paragraph 16, defendant realleges and incorporates by reference its  
6 answers to paragraphs 1 through 16 above.

7           17.     Answering paragraph 17, denied.

8           18.     By way of answer to paragraph IV entitled "Prayer for Relief," to the extent  
9 that these allegations may deem an answer, defendant denies each and every one contained  
10 therein.

11                               AFFIRMATIVE DEFENSES

12           By way of further answer and affirmative defenses, defendant alleges as follows:

13           1.     Plaintiff's injuries were caused solely or in part by her own negligence under  
14 the circumstances then existing.

15           2.     Plaintiff's injuries were caused solely or in part by the negligence of others  
16 over whom this answering defendant had no control.

17           3.     Plaintiff has failed to state a claim upon which relief can be granted.

18           4.     Plaintiff assumed the risk of utilizing "Non-HAL Services."

19           5.     Plaintiff's claims are contractually barred by the exclusion of liability for Non-  
20 HAL Services as set forth in plaintiff's passenger ticket.

21           WHEREFORE, having fully answered plaintiff's complaint and set forth its  
22 affirmative defenses, Holland America Lines, Inc. prays as follows:


23           1.     that plaintiff's Complaint be dismissed with prejudice;

24           2.     that defendant be granted its costs, including reasonable attorneys fees incurred  
25 in defending this action; and  
26

1           3.       that the Court grant defendant such other relief as it deems equitable and just.

2       DATED: June 30, 2009

3                               LANE POWELL PC

4  
5                               By   
6                               Mark G. Beard, WSBA No. 11737  
7                               Attorneys for Defendant Holland America Lines,  
8                               Inc.

**CERTIFICATE OF SERVICE**

Pursuant to RCW 9.A.72.085, the undersigned certifies under penalty of perjury under the laws of the State of Washington, that on the 30th day of June, 2009, the document attached hereto was presented to the Clerk of the Court for filing and uploading to the CM/ECF system. In accordance with their ECF registration agreement and the Court's rules, the Clerk of the Court will send e-mail notification of such filing to the following persons:

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Executed on 30th day of June, 2009, at Seattle, Washington.

s/Mark G. Beard  
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